

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : LaRosa et al. Art Unit : 1648
Serial No. : 10/766,610 Examiner : Agnieszka Boesen
Filed : January 27, 2004
Patent No. : 7,442,775
Issue Date : October 28, 2008
Title : HUMANIZED ANTI-CCR2 ANTIBODIES AND METHODS OF USE THEREFOR

MAIL STOP PETITIONS / OPLA

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being electronically filed in accordance with §1.6(a)(4) on the 24th day of December, 2008.

/Laurie Butler Lawrence/

Laurie Butler Lawrence, Reg. No. 46,593

PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR
§1.705(d)

Applicant hereby petitions for reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent at time of issuance. The *Issue Notification* and updated *Determination of Patent Term Adjustment* under 35 U.S.C. 154(b) states that the Total Patent Term Adjustment at issuance is 111 days. Reconsideration of the PTA to reasonably increase Total PTA from 111 days to 339 days, is respectfully requested.

The Patent Term Adjustment History in the PAIR system reflects that the U.S. Patent and Trademark Office (PTO) calculated the PTA from time of Allowance until Issuance as follows:

For delay under 35 U.S.C §154(b)(1)(A):

PTO issuance of a notification under section 132 on March 3, 2006 was 348 days from March 27, 2005, which is fourteen months from the filing date of the application. Applicants are in agreement with the accorded PTO delay of 348 days;

Applicant filed a reply to non-final action on December 18, 2006 which is more than three months after the mailing of the non-final office action on June 22, 2006. Applicants are in agreement with the accorded APPL delay of 87 days;

Applicant filed a reply to final action on September 12, 2007 which is more than three months after the mailing of the final office action on March 13, 2007. Applicants are in agreement with the accorded APPL delay of 91 days;

Applicant filed a reply to non-final action on April 14, 2008 which is more than three months after the mailing of the final office action on November 15, 2007. Applicants are in agreement with the accorded APPL delay of 59 days;

Thus, the total PTA accorded under 35 U.S.C. §154(b)(1)(A) is 111 days.

The following additional information was not reflected in the PTO calculation of PTA. However, the dates reflected below can be verified in PAIR.

For delay under 35 U.S.C. §154(b)(1)(B):

PTO 36 month Patent Term Guarantee which was applied from the three year pendency date of January 27, 2007 to issuance on October 28, 2008 is 640 days. However, Applicant filed a *Request for Continued Examination (RCE)* on September 12, 2007. The total number of days from the filing of the RCE to issuance is 412 days.

Thus, the total delay under 35 U.S.C. §154(b)(1)(B) is 228 days.

REMARKS

In regard to calculation provided above, the PTO has to take into account PTO delays under 35 U.S.C. §154(b)(1), any overlapping periods in PTO delay under 35 U.S.C. §154(b)(2)(A), and any applicant delays under 35 U.S.C. §154(b)(2)(C).

The PTA for U.S. Patent Number 7,442,775 (hereafter referred to as “the ‘775 patent”), as determined by the PTO under 35 U.S.C. §154(b), and listed on the face of the ‘775 patent is 111 days. The determination of the 111-day PTA is in error in that pursuant to 35 U.S.C. §154(b)(1)(B) the adjustment should include the time exceeding three years after the actually filing date of the ‘775 patent until issuance (less Applicant’s delay in filing an RCE).

Under 35 U.S.C. §154(b)(1)(A), Applicant is entitled to an adjustment of the term of the ‘775 patent of a period of 111 days, which is the number of days attributable to PTO examination delay (less Applicant’s delay) (“A delay”).

Under 35 U.S.C. §154(b)(1)(B), Applicant is entitled to an additional adjustment of the term of the ‘775 patent of a period of 228 days. This is the number of days exceeding three years from the filing date until issuance, less the number of days during that time period that includes Applicant’s filing of an RCE until issue of the ‘775 patent (“B delay”).

Thus, the total period of PTO delay is 339 days, which is the sum of the period of A delay (111 days) and the period of B delay (228 days).

Applicant respectfully requests that the determination of the Patent Term Adjustment at Issuance be re-calculated as indicated above.

As required by 1.118(e), please apply the \$200 fee and any other charges or credits to Deposit Account No. 50/2762.

If there are any questions, please contact the undersigned. Thank you for your courtesy and consideration.

Respectfully submitted,
LaRosa et al., Applicants

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